

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DuCONRAD DAVIES,

Plaintiff,

- against -

MARC GOFFMAN, DHD/ICE

Defendant.  
-----X

09 Civ. 7224 (PAC) (KNF)

ORDER

HONORABLE PAUL A. CROTTY, United States District Judge:

Petitioner DuConrad Davies filed a 28 U.S.C. § 2241 petition for a writ of habeas corpus challenging the legality of his detention by United States Immigration and Customs Enforcement (“ICE”) on August 17, 2008. As relief, Petitioner sought to be released from ICE custody pursuant to an order of supervision. On August 25, 2008, the Court referred the case to Magistrate Judge Kevin Nathaniel Fox. In a Report and Recommendation dated December 21, 2009, Magistrate Judge Fox recommended that the petition be dismissed as moot because Petitioner had been released from custody. The following month, Petitioner filed a motion styled under Rule 15(a) of the Federal Rules of Civil Procedure, explaining that his “supervision was revoked even though [he] did not violate any conditions set upon [him],” and asking the Court to “grant [his] release from custody.”

Magistrate Judge Fox directed the Respondent to file a response to the motion, along with any documents and information relevant to Petitioner’s detention, by April 31, 2010. In a letter dated April 21, 2010, Respondent informed the Court that Petitioner had been removed from the United States to Liberia. A copy of the executed warrant of removal is attached to the letter. On April 23, 2010, Magistrate Judge Fox issued a

Report and Recommendation recommending that the Court deny petitioner's motion as moot. The Report and Recommendation provided fourteen days to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. The Report and Recommendation specifically advised that "failure to file objections within fourteen (14) days will preclude appellate review." No objections have been filed.<sup>1</sup>

"To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). Upon review and analysis, the Court finds no clear error and agrees with Magistrate Judge Fox's determination that since Petitioner is no longer in ICE custody, the relief requested through his habeas petition – release from Respondent's custody – has been effected. Petitioner's motion styled under Rule 15(a) is moot. See Lewis v. DHS/ICE of Buffalo, N.Y., No. 09-CV-0367M, 2009 WL 3242564, at \*1 (W.D.N.Y. Oct. 6, 2009) (dismissing § 2241 habeas petition as moot because "petitioner's removal has been effected and . . . the relief requested in the petition has been achieved, i.e., release from administrative detention pending removal."). Moreover, since Petitioner is no longer in ICE custody, his petition for a writ of habeas corpus is also moot. Id.

Accordingly, the Court accepts and adopts the Report and Recommendation dated April 23, 2010 as its opinion. Petitioner's motion styled under Rule 15(a) is DENIED

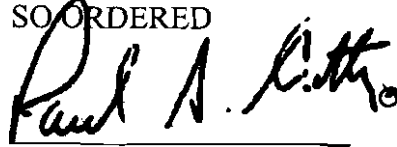
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<sup>1</sup> Since Respondent is unaware of Petitioner's address in Liberia, the R&R was mailed to Petitioner's last known residential address in the United States. The Court will likewise send a copy of this Order to Petitioner's last known residential address, in the event that someone at that location is aware of Petitioner's address in Liberia.

and his petition for a writ of habeas corpus is DISMISSED. The Clerk of Court is directed to enter judgment accordingly.

Dated: New York, New York  
July 19, 2010

SO ORDERED

A handwritten signature in black ink, appearing to read "Paul A. Crotty", written over a horizontal line.

PAUL A. CROTTY  
United States District Judge

Copies to: Honorable Kevin Nathaniel Fox  
United States Magistrate Judge

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